

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

FIRST APPEAL NO.1132 OF 2010

The State of Maharashtra

.. Appellant
(Orig. Respondent)

Versus

1. Sukhdeo Yadu Adsul
Age : 35 Yrs,

2. Kalpana Yadu Adsul,
Age : 25 yrs,

Both Agriculturists and
R/o. Hiware-Korda, Tq. Parner,
District Ahmednagar

.. Respondents
(Orig. Claimants)

.....

AGP for Appellant - State : Shri A.M. Phule
Respondent Nos.1 & 2 - Served

...

CORAM : PR. BORA, J.
Dated: January 07, 2019

ORAL JUDGMENT :

1. Though the respondents are duly served, no one of them has caused appearance in the matter.

2. The State has assailed the impugned Judgment and Award passed in LAR No.173 of 1993 decided by Joint Civil Judge, Senior Division at Ahmednagar on 29.11.2000 on various

grounds. The learned AGP submitted that, without there any cogent and sufficient evidence, the Reference Court has arbitrarily enhanced the amount of compensation. The learned AGP further submitted that, the Reference Court has also manifestly erred in awarding interest under Sections 28 and 34 of the Land Acquisition Act (hereinafter referred to as the 'Act') from the date of possession instead of from the date of passing of the Award. On these two grounds, the learned AGP submitted for setting aside the impugned Judgment and Award.

3. I have carefully perused the impugned Judgment. Insofar as the objection raised by the learned AGP that, without there being any evidence the Reference Court has arbitrarily enhanced the amount of compensation, I see no merit in the objection so raised. The Reference Court has relied upon its earlier Judgment delivered in LAR No.444/1992. As has been observed by the Reference Court, the land which was the subject matter in the said reference application was also from village Hivre-Korda and was acquired for the same purpose and vide the same notification. In the said matter, the Reference Court

has awarded the compensation at the rate of Rs.50,000/- per hector. In the present matter also, the Reference Court has awarded the compensation at the rate of Rs.50,000/- per hector. After having perused the impugned Judgment, it does not appear to me that, the Reference Court has committed any error in determining the market value of the acquired land at the rate of Rs.50,000/- per hector.

4. However, insofar as the objection in regard to award of interest under Sections 28 and 34 of the Act is concerned, there is substance in the submission made by the learned AGP. The Reference Court has awarded the interest under both the aforesaid provisions from the date of possession. In view of the Full Bench Judgment of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513**, the interest under Section 34 of the Act can only be awarded from the date of declaration of the Award under Section 11 of the Act and not from any prior date. The learned Single Judge of this Court in the case of **The State of Maharashtra & Ors Vs. Ramesh Tukaram Meshram & Ors,**

2018 (1) ALL MR 645 has held that, the interpretation accorded to Section 34 of the Act by the Full Bench of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari**, 2016 (4) ALL MR 513 would also have its equal application while understanding the import of Section 28 of the Act. In another Judgment in **First Appeal No.483 of 2018** with connected appeals, the learned Single Judge of this Court (**Coram : Sunil P. Deshmukh, J.**) has taken a similar view and has held that, the interest under Sections 28 and 34 of the Land Acquisition Act payable to the claimants would be from the date of Award and not from the date of possession.

5. In the present matter, the Reference Court has awarded the interest under Sections 28 and 34 of the Act from the date of possession. In view of the Judgments referred herein above, the order passed by the Reference Court cannot be sustained. Thus, to the aforesaid extent, the Award impugned in the present appeal needs to be interfered with. In the result, the following order is passed.

ORDER

(i) The Award passed in LAR No.173 of 1993 dated 29.11.2000 stands set aside in so far as it relates to grant of interest under Sections 28 and 34 of the Land Acquisition Act from the date of taking possession and, instead such an interest is made payable from the date of declaration of the Award under Section 11 of the Act i.e. from 01.08.1991.

(ii) The Award be modified accordingly.

(iii) The appeal thus stands partly allowed in the aforesaid terms.

(iv) Civil Application No.7454 of 2008 stands disposed of.

(PR. BORA, J.)